In the High Court of Uttaranchal, at Nainital.

Criminal W.P. No. 129 of 2005 (M/B)

Makkhan Singh S/o Sawan Singh
R/o Village Ittawa, Police Station
Bajpur, District U.S. Nagar ….. Petitioner.

Versus

1- State of Uttaranchal, through District Magistrate Udham Singh Nagar.

2- Additional District Magistrate, U.S. Nagar.

3- Superintendent of Police, U.S. Nagar ...Respondents.

Sri G.C. Lakhchaura, learned counsel for the petitioner.

Sri D.K. Sharma, learned G.A.

Coram: Hon'ble P.C. Verma, J.

Hon'ble B.C. Kandpal, J.

Dated: 30-03-2006

Heard Sri G.C. Lakhchaura, learned counsel for the petitioner and Sri D.K. Sharma, learned G.A. for the State.

2- The petitioner has filed the present writ petition under Article 226 of the Constitution of India, to issue a writ, order or direction in the nature of certiorari to quash the notice dated 3-9-2001 and subsequent notice dated 20-12-2004 (contained as Annexure Nos. 1 and 3 to the writ petition).

3- According to the petitioner the District Magistrate U.S. Nagar has served him with the notice dated 3-9-2001 to show cause as to why he should not be implicated under Section 3 of the U.P. Control of Goondas Act, 1970. The petitioner also alleged that the Additional District Magistrate Udham Singh Nagar on the same case history issued another show cause notice U/S 3 of the Act without any legal grounds and the act of the respondents is beyond the jurisdiction and is a gross misuse of process of law and the notices are liable to be quashed.

4- The learned A.G.A. filed short counter affidavit and made statement on oath that the subsequent notice issued against the petitioner U/S 3 of the Act has been withdrawn by

the Additional District Magistrate, U.S. Nagar, in view of the fact that the proceedings in pursuance of the first notice dated 3-9-2001 issued against the petitioner, are pending. Copy of the order passed by the Additional District Magistrate, U.S. Nagar has been filed as S.C.A.-1.

5- Learned counsel for the petitioner has argued that the internment period of six months of show cause notice issued against the petitioner has expired and no action may be taken against him in pursuance of said notice.

6- Admittedly the first notice, which is in existence, was issued against the petitioner on 3-9-2001 and the internment period of six months has expired way back. In view of it no action shall be taken against the petitioner in pursuance of notice dated 3-9-2001 and the impugned notice is liable to be quashed.

7- In view of aforesaid reason, the impugned notice dated 3-9-2001 issued against the petitioner is hereby quashed. The writ petition is disposed of finally.

(B.C. Kandpal, J.) **(P.C. Verma, J.)**

ISB